

**CONSIDERATION OF A NOTICE OF PROPOSED RULEMAKING TO AMEND
RULE 5 CSR 20-500.130, RELATING TO CONFIDENTIALITY AND RELEASE OF
INFORMATION**

STATUTORY AUTHORITY:

Section 178.590 – 178.620, RSMo; Section
161.092, RSMo

Consent Action Report
Item Item Item

DEPARTMENT GOAL NO. 4:

The Missouri Department of Elementary and Secondary Education will improve departmental efficiency and operational effectiveness.

SUMMARY:

The proposed amendment updates the rule relating to vocational rehabilitation consumer confidentiality and release of consumer information. Proposed changes add the Division of Workforce Development and school districts to the list of entities VR may provide consumer information to in the performance of services. It also adds circumstances in which consumer information will be released without consumer consent, i.e. in response to a law enforcement investigation, abuse, fraud, an order by a judge or other judicial officer, and when necessary to protect the consumer or others if the consumer poses a threat.

PRESENTER(S):

Jeanne Loyd, Assistant Commissioner, Office of Adult Learning and Rehabilitation Services, will assist with the presentation and discussion of this item.

RECOMMENDATION:

The Department recommends that the State Board of Education authorize publication in the *Missouri Register* the proposed amendments of 5 CSR 20-500.130 relating to confidentiality and release of information in the provision of Vocational Rehabilitation Services.

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 20—Division of Learning Services
Chapter 500—Office of Adult Learning and Rehabilitation Services

PROPOSED AMENDMENT

5 CSR 20-500.130 Confidentiality and Release of Information. The State Board of Education is amending the purpose and sections (1) – (4).

PURPOSE: This amendment is updating the rule to reflect the name change from the Division of Vocational Rehabilitation to the office of Adult Learning and Rehabilitation Services, clarifying language, and updating circumstances under which an eligible individual's files will be released.

*PURPOSE: This rule establishes the procedures for release of information and confidentiality of applicants and/or eligible individuals for the State Board of Education through the [Division of Vocational Rehabilitation] **Office of Adult Learning and Rehabilitation Services**, Department of Elementary and Secondary Education pursuant to the Rehabilitation Act of 1973 as amended and the **Code of Federal Regulations 34 CFR § 361.38**.*

(1) Information about an applicant or eligible individual will not be released without the individual's written permission except in the following situations when it directly relates to the applicant or eligible individual's rehabilitation program and is necessary to provide services:

(A) Name, addresses, [S]social [S]security number, phone numbers, educational/work histories, and income information to other state agencies that [the Division of V]vocational [R]rehabilitation [(DVR)] **(VR)** has a cooperative agreement with including but not limited to, **the** Departments of [Economic Development,] Elementary and Secondary Education, Higher Education, Labor and Industrial Relations, Mental Health, Social Services, **the Division of Workforce Development, and school districts**; and/or

(B) Information about an applicant or eligible individual to [C]community [R]rehabilitation [P]programs; and/or

(C) Information about an applicant or eligible individual to medical care service providers; and/or

(D) As authorized in the federal act and/or applicable regulations.

(2) An applicant's or an eligible individual's refusal to release information may affect **the individual's** eligibility to receive services or may result in **the** denial of services.

(3) Information from an individual's file must be requested in writing.

(A) Upon the determination that information is harmful to the individual, information will not be released to the individual, but will be released to court appointed representatives or a third party chosen by the individual including an advocate, [individual's adult family member,] **an adult member of the individual's family, or a qualified medical or mental health professional.**

(B) Information will be released in response to a law enforcement investigation, fraud, or abuse, and in response to an order by a judge or other authorized judicial officer.

(C) To protect the individual or others if the individual poses a threat to his or her safety or to the safety of others.

(4) An applicant or eligible individual who believes that information in the individual's record of services is inaccurate or misleading may request in writing that [D]VR amend the information. If the information is not amended, the request for the amendment must be documented in the record of services.

AUTHORITY: section 161.092, RSMo Supp. 2013 and sections [161.092,] 178.600, 178.610 and 178.620, RSMo [1994] 2000. This rule previously filed as 5 CSR 90-4.110. Original rule filed Dec. 17, 1999, effective Aug. 30, 2000. Moved to 5 CSR 20-500.130, effective Aug. 16, 2011.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Elementary and Secondary Education, Attention: Jeanne Loyd, Assistant Commissioner, Office of Adult Learning and Rehabilitation Services, 3024 Dupont Circle, Jefferson City, MO 65109 or by email at info@vr.dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*